

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6283

BILL NUMBER: HB 1400

NOTE PREPARED: Nov 21, 2002

BILL AMENDED:

SUBJECT: Drug Paraphernalia.

FIRST AUTHOR: Rep. Smith V

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- 1) It increases the penalty for manufacturing paraphernalia related to a controlled substance other than or in addition to marijuana, hash oil, or hashish from a Class A misdemeanor to a Class D felony by creating the offense of manufacture of controlled substance paraphernalia.
- 2) It increases the penalty for dealing in paraphernalia related to a controlled substance other than or in addition to marijuana, hash oil, or hashish from a Class A misdemeanor to a Class D felony by creating the offense of dealing in controlled substance paraphernalia.
- 3) It provides that the penalty for dealing in or manufacturing paraphernalia is enhanced for a person who has a prior judgment or conviction for manufacturing, dealing, or possession of paraphernalia.
- 4) It makes related changes in the laws governing the suspension of licenses and the confiscation of property for a violation of the laws governing paraphernalia.

Effective Date: July 1, 2003.

Explanation of State Expenditures: The bill would establish two Class D felonies for manufacture of controlled substance paraphernalia and dealing in controlled substance paraphernalia. Both of these crimes could be enhanced to a Class C felony if the offender has a previous conviction under this chapter. These new offenses would increase the penalty for crimes that otherwise would be Class A misdemeanors.

State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail. A Class D felony is punishable by a prison term ranging between six months to three years or reduction to Class A misdemeanor, and a Class C felony is punishable by a prison term ranging between 2 and 8 years. The period of incarceration will depend upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost per offender for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily. The average length of stay in DOC facilities for all Class D felony offenders is approximately 10 months, and the average length of stay for all Class C felony offenders is approximately 2 years.

Explanation of State Revenues: More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a Class D felony or a Class C felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

Explanation of Local Expenditures: If an offender is sentenced to state prison rather than to a county jail, the costs to the county may be reduced. The maximum term of imprisonment for a Class A misdemeanor is up to one year. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

Explanation of Local Revenues: Court fees for both misdemeanors and felonies are \$120.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs Association.

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